

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
July 19, 2023

FILED
08/09/2023
Clerk of the
Appellate Courts

ANGLIN G. WRIGHT v. LISA ROBISON

**Appeal from the Circuit Court for Sumner County
No. 29955-C Joe Thompson, Judge**

No. M2023-00685-COA-R3-CV

This is an appeal from a final judgment entered on April 5, 2023. Because the appellant did not file her notice of appeal with the clerk of the appellate court within thirty days after entry of the final order as required by Tennessee Rule of Appellate Procedure 4(a), we dismiss the appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

FRANK G. CLEMENT, JR., P.J., M.S., ANDY D. BENNETT, and W. NEAL MCBRAYER, JJ.

Jacob Shad Mason, Gallatin, Tennessee, for the appellant, Lisa Robison.

Gwynn K. Smith, Gallatin, Tennessee, for the appellee, Anglin Wright.

MEMORANDUM OPINION¹

This appeal arises out of a petition filed by Anglin Wright seeking to compel Lisa Robison to execute a quitclaim deed to real property awarded to her former husband, Ronnie Glenn Wright, Jr., in a 2007 divorce decree. On April 5, 2023, the trial court entered a final judgment granting Mr. Wright’s motion for summary judgment and directing Ms. Robison to execute a quitclaim deed. On May 8, 2023, Ms. Robison filed a notice of appeal with the clerk of this Court.

Tennessee Rule of Appellate Procedure 4(a) requires that a notice of appeal be filed

¹A case designated as a memorandum opinion “shall not be published, and shall not be cited or relied on for any reason in any unrelated case.” Tenn. Ct. App. R. 10.

with the clerk of the appellate court within thirty days after entry of the judgment appealed. Ms. Robison did not file her notice of appeal until May 8, 2023, thirty-three days after entry of the judgment. On July 20, 2023, this Court ordered Ms. Robison to show cause why her appeal should not be dismissed for failure to file a timely notice of appeal. Ms. Robison has responded that she mailed her notice of appeal to the clerk on May 5, 2023, exactly thirty days after entry of the judgment.

Papers filed with the appellate court are considered timely if they “are received by the clerk within the time fixed for filing or mailed to the office of the clerk by certified return receipt mail or registered return receipt mail within the time fixed for filing.” Tenn. R. App. P. 20(a). Filings will also be considered timely if “placed for delivery with computer tracking, either through a commercial delivery service or the United States Postal Service, within the time fixed for filing.” *Id.* A filing sent by regular first class mail will be considered timely only if it is actually received by the clerk within the time fixed for filing. Here, the envelope containing the notice of appeal indicates it was sent by regular first class mail, and the clerk did not receive the notice of appeal until May 8, 2023, three days late.

The thirty-day time limit for filing a notice of appeal is mandatory and jurisdictional. *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004); *Binkley v. Medling*, 117 S.W.3d 252, 255 (Tenn. 2003). This Court can neither waive nor extend the time period. Tenn. R. App. P. 2 and 21(b); *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d 856, 868 n.1 (Tenn. Ct. App. 2008); *Jefferson v. Pneumo Servs. Corp.*, 699 S.W.2d 181, 184 (Tenn. Ct. App. 1985). The failure to file a timely notice of appeal deprives this Court of jurisdiction to hear the matter. *Flautt & Mann*, 285 S.W.3d at 869 n.1.

The appeal is dismissed for failure to file a timely notice of appeal. The case is remanded to the trial court for further proceedings consistent with this opinion. Lisa Robison is taxed with the costs for which execution may issue.

PER CURIAM